

North Smithfield Zoning Board of Review
July 22, 2014, 7:00pm
Kendall Dean School
83 Green St., Slatersville, RI

The Chair called the meeting to order at 7:05 pm.

1. Roll Call

Present: Chair William Juhr, Vice Chair Steve Scarpelli, Scott Martin, Paul Pasquariello, Vincent Marcantonio and Robert Najarian, 2nd Alternate. Also present was Town Solicitor James Lombardi and Building and Zoning Official Robert Benoit. Absent: from Roll Call were Mario DiNunzio and Assistant Town Solicitor Stephen Archambault. Mr. Juhr thanked Mr. Lombardi for filling in for the Asst Town Solicitor and welcomed Mr. Najarian who was appointed as the 2nd Alternate.

2. Mr. Juhr made disclosure of no compensation or pension credits are received by the board members.

3. Approval of minutes, March 11, 2014.

Mr. Scarpelli made a motion to approve the minutes of March 11, 2014. Mr. Marcantonio seconded the motion, with all in favor.

4. Decision regarding the application by Valley Alliance for Smart Growth, Inc., (VASG) appeal of the Zoning Official and Planning Director's decision to deny the complaint against Dowling Village, LLC. VASG alleged non-compliance of the Town of North Smithfield's Major Land Development approval. The alleged non-compliance involves the Town approval's terms and conditions, the Zoning Ordinance/Soil Erosion and Sediment Control, and this subdivision Land Development and subdivision Regulation.

The written decision was prepared by Asst Town Solicitor, Mr. Archambault. A motion was made by Scott Martin, seconded by Paul Pasquariello, to approve the written decision for VASG appeal. Roll call vote was as follows: YES: Mr. Juhr, Mr. Pasquariello, and Mr. Martin. Motion passed, with 3-0.

5. Decision regarding the application by NextSun Energy LLC, together with Sam Man Realty Corp., land owner, are requesting to install a "Renewable Energy Solar Field" located at 582 Great Road, Plat 5, Lot 479. This property is located in the Manufacturing Zoning District. Section 5.4.9, SubSection 7 of the Ordinance requires the granting of a Special Use Permit by the Zoning Board of Review for this proposal.

The written decision was prepared by Asst Town Solicitor, Mr. Archambault. A motion was made by Mr. Scarpelli, seconded by Mr. Martin, to approve the written decision for NextSun

Energy LLC granting of a Special Use Permit. Roll call vote was as follows: YES: Mr. Juhr, Mr. Pasquariello, Mr. Martin, and Mr. Scarpelli. Motion passed, with 4-0.

6. Application of Arista North Smithfield, LLC requesting a dimensional variance from Section 6.17, "Sign Regulations", subsection 6.17.6 of the Zoning Ordinance. Locus is One Eddie Dowling Highway, Plat 21, Lot 33. Zoning District: Highway Business.

Attorney Elizabeth Noonan representing Arista Development discussed the Walgreen project which is the property near Stop & Shop. They appeared last year before the Planning Board to seek approval of the 2 acre site taking two separate lots – the old gas station and the mini strip mall and developed approximately 14,000 sq. ft for Walgreens with a drive thru. Applicant received final approval this year for the master plan and preliminary plan and is seeking a dimensional variance for signage on the site – free standing and wall signs on the exterior of the building. The front part of Stop & Shop is part of their property which sits on an oddly shaped lot. There were three signs before the development for Stop & Shop, the old gas station and the strip mall. Applicant wants to reduce the number of free standing signs to one free standing sign for Walgreens which meets the height requirement. Mr. Douglas Benoit from Arista Development was sworn in.

Mr. Juhr reviewed the Exhibits.

P1) Town of North Smithfield application for certificate of zoning compliance, right hand corner dated 6/24/14, 1 page, Application No: ZC-2014-37 dated April 16, 2014.

P2) Application for hearing before Zoning Board of Review, Application No: ZC-2014-37, Fee \$250, date 6/24/14, Location: One Eddie Dowling Highway. Plat 21 Lot 33 for dimensional variance.

P3) Walgreens, Eddie Dowling Highway, North Smithfield/Woonsocket Abutters List updated April 16, 2014, 1 page.

P4) Walgreens site plan, Bohler Engineering, M.D. Smith Professional Engineer stamp, Applicant Arista Development LLC, date 3/11/13, reviewed by JGS/RMM, 5 page document C-100, A-210, A-220, A-720, A-730.

P5) Radius map prepared by Bohler Engineering, date 5/14/14, stamped by registered professional engineer, Matthew D. Smith, 1 page.

P6) Site plan, lower right corner C-100, date 3/11/13, reviewed by JGS/RMM, Bohler Engineering, stamped by registered professional engineer, Matthew D. Smith.

P7) Letter to Zoning Board Members dated June 26, 2014. Applicant, Arista of North Smithfield, LLC (Walgreens) which will be located at One Eddie Dowling Highway, North Smithfield, also known as Tax Assessor's Plat 21 Lot 33. Applicant is requesting to have more signage than allowed by our ordinance. This request will require the granting of a Dimensional Variance, Section: 6.17. Sub Section: 6.17.6 of our current Zoning Ordinance.

P8) Letter from the Planning Board dated July 18, 2014 to Zoning Board of Review voted unanimously to recommend approval of the dimensional variance for Walgreens, owner/applicant Mars Enterprises LLC/Arista Development LLC.

Doug Benoit, Project Manager with Arista Development and also a professional engineer. Arista has done dozens of Walgreens throughout New England. They are hoping to open Walgreens in the spring as soon as they can pave. Mr. Doug Benoit reviewed the survey of the existing conditions before the demo and an overview of the site with the proposal. Stop & Shop has an easement agreement with the exclusive use of their parking area on their lot. Stop & Shop has a sign located on Eddie Dowling Highway which will remain and Arista Development is requesting a variance to have a sign at the driveway for Walgreens. The proposed color landscaping plan was presented but not part of the exhibit. Parking requirements have been met per zoning and they are asking for approval for a standalone, pile on sign and three wall signs on Walgreens building.

Steve Moeser was sworn in from Moeser & Associates, Harvard, MA. Mr. Moeser is a licensed architect with Walgreens for the last 20 years and testified before the Planning Board with the building design and elevations. Seeks to place three signs on the North (33.33 sq. ft.), West (19.98 sq. ft.) and East (33.33 sq. ft.) elevations and two freestanding signs – one for Walgreens and the existing Stop & Shop sign located at Eddie Dowling Highway. Proposed pile on sign at front of the site 40 sq. ft. and 20 ft. in height overall 63.1 sq. ft. and 200 ft. from Stop & Shop. The sign does not block visibility. The reader board will have one ad daily and will not be scrolling or flashing.

Robert Najarian asked about the impacts on the elevations shown if they are in compliance. Attorney Noonan stated the pile on sign would be gone as they are only allowed one sign on the building – limited to two signs under 40 sq. ft. Mr. Najarian asked how does the street sign, 20 ft. in height, relate to the three wall mounted signs. Attorney Noonan stated they are allowed one pile on sign and could not choose. Stop & Shop has an agreement and signage is already in place. Attorney Noonan stated the two lots were merged to one lot after the approvals. Seeking relief for two signs total and one free standing sign. They are allowed two signs total and seeking three signs on the buildings (three elevations) and a second free standing sign. Stop & Shop easement agreement does not allow them to put a Walgreens sign on their sign. The presentation was concluded.

Mr. Juhr closed the public hearing at 7:40 p.m.

No discussion. A motion was made by Mr. Scarpelli, seconded by Mr. Pasquariello to approve the application of Arista North Smithfield, LLC requesting a dimensional variance from Section 6.17, “Sign Regulations”, subsection 6.17.6 of the Zoning Ordinance. Locus is One Eddie Dowling Highway, Plat 21, Lot 33. Zoning District: Highway Business. Roll call vote was as follows: YES: Mr. Juhr, Mr. Scarpelli, Mr. Martin, Mr. Pasquariello, and Mr. Marcantonio. Motion passed, with a vote of 5-0.

7. Application of Anthony and Elaine Pontarelli, requesting a dimensional variance from

Section 5.5, “District Dimensional Regulations”, subsection 5.5.1 residential districts, for the purpose of constructing single family dwellings. Locus is McCann Street, Plat 1, Lot 275. Zoning District: RS-40.

Mr. Philip Godfrin was sworn in.

Mr. Juhr reviewed the Exhibits.

P1) Town of North Smithfield application for certificate of zoning compliance, right hand corner dated 6/25/14, 1 page, Application No: ZC-2014-38 dated 06/04/14, Zoning District RS-40, Location McCann Street, Plat 1, Lot 275.

P2) Town of North Smithfield application for hearing before Zoning Board of Review, Application No: ZC-2014-38, Fee \$350, Date 6/25/14, Zone RS-40, Location McCann Street, Plat 1, Lot 275 for dimensional variance. Second page letter dated June 2, 2014 to North Smithfield Zoning Board c/o bob Benoit from Mr. Pontarelli requesting a dimensional variance from Section 5.5, Sub Section 5.5.1 Residential Districts, Suburban Residential RS-40.

P3) Letter on Town of North Smithfield letterhead from Zoning Official dated June 26, 2014 to Zoning Board Members – the applicants, Anthony & Elaine Pontarelli, own property on McCann Street in North Smithfield, property is vacant land known as Tax Assessor’s Plat 1 Lot 275. This Lot 275 has been divided into two parcels. Mr. & Mrs. Pontarelli are requesting to construct a single family dwelling on each parcel. This proposal will require the granting of a dimensional variance from Section 5.5 Sub Section 5.5.1. The document was not signed by the Building Official. Mr. Bob Benoit signed the letter at the meeting and dated 7/22/14.

P4) Abutters list, 19 abutters, 2 pages.

P5) 200’ Radius map stamped by Philip S. Mancini, Jr., Professional Land Surveyor, dated 12-14-12.

P6) Cover letter dated June 2, 2014, 2 pages, to North Smithfield Zoning Board c/o Bob Benoit, McCann Street, Plat 1, Lot 275, Parcel 1 signed by Mr. Pontarelli. Attached to Site Plan, stamped by Philip S. Mancini Jr., Professional Land Surveyor, dated 6-20-14.

P7) Cover letter dated June 2, 2014, 2 pages, to North Smithfield Zoning Board c/o Bob Benoit, McCann Street, Plat 1, Lot 275, Parcel 2 signed by Mr. Pontarelli. Attached to Site Plan stamped by Philip S. Mancini, Jr., Professional Land Surveyor, dated 5-22-14.

Mr. Godfrin was speaking on behalf of Mr. Pontarelli’s as his builder. The application for the property on McCann Street was approved in September 2013 by the Zoning Board for a dimensional variance and several members voted on this board. The Planning Board approved a minor subdivision creating two lots on July 18, 2013. Both decisions are already on record. Mr. Lombardi, Town Solicitor, stated the notice is on record and can use as testimony since the applicant did not provide the decisions as part of the application.

Mr. Marcantonio asked why it takes so long (for tax purposes) to sub-divide the land when it was approved last year. Bob Benoit stated the division of land has been recorded in the Town Clerk's Office; however, the Tax Assessor has not issued a number for one of the parcels.

Mr. Godfrin said the deed has not been created separating the two lots until the lots are sold off. The Tax Assessor will reassign a new number. With reference to the Zoning Board and Planning Board recorded approvals as well as the subdivision plan for Parcel 1 and Parcel 2. Parcel 1 listed as Exhibit P6 – when it was time to layout a building on the lots it became impossible to meet the setbacks due to the shallow depth of the lots. Parcel 1 meets rear setbacks but requires 5 ft dimensional variance for the front setback. Exhibit P7, Parcel 2, is shallower than Parcel 1 and meets the left and right sideline setbacks but requires 5 ft front and 7 ft rear setbacks. The very shallow depth of the lots makes it impossible to fit a reasonable dwelling that is marketable.

Mr. Godfrin would like to keep the frontage of the houses in line with each other. He took a visual survey of the lots in the area and many do not meet any dimensional variances. A 25 ft front setback is in keeping up with the general nature of the houses on the street.

Mr. Martin reviewed the map and stated AP-1, Lot 269, is 16 ft off the street. AP-1, Lot 73 has a distance between 20 ft and 25 ft off the street. All houses are 15 ft from the street. Mr. Scarpelli stated the original request did not include any dwellings.

Mr. Benoit said most houses on McCann Street have been there the past 30 years and do not meet front and side setbacks. The last new house built on that street did not conform.

Mr. Godfrin said this hardship is not a result of anything caused by Mr. Pontarelli. The relief sort is minimal and makes a house marketable and conforms to the nature of the neighborhood.

Anthony Pontarelli was sworn in. In 2013, he came before the board requesting a dimensional variance for the subdivision of the lots. The original plan was to build a house for them since their daughter lived in the back. The daughter was thinking of moving so they decided not to build a house. No family member will be living there. Mr. Godfrin said the Pontarelli's bought the lots at the height of the market and looking for recovery for most of what was spent on the property.

Mr. Juhr closed the public hearing at 8:15 p.m. for testimony.

A motion by Mr. Scarpelli, seconded by Mr. Marcantonio to approve the dimensional variance for Lot 275, Parcel 1 and 2. Mr. Lombardi stated it would be ok to do both parcels together. Mr. Najarian suggested they push back Parcel 1 to seek relief. Mr. Marcantonio suggested they keep both symmetric. Mr. Juhr said the whole neighborhood is mismatched with non-conforming lots. Roll call vote was as follows: YES: Mr. Juhr, Mr. Scarpelli, Mr. Martin, Mr. Pasquariello, and Mr. Marcantonio. Motion passed, with a vote of 5-0.

Mr. Scarpelli made a motion to adjourn at 8:20 p.m. Mr. Martin seconded the motion, with all in favor.

Submitted by Diane Agostini